

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

D.O. and K.O., Plaintiffs

v.

AGAWAM PUBLIC SCHOOLS,
Defendant

Civil Action No.:

COMPLAINT FOR ATTORNEY FEES

INTRODUCTION

This action is being brought by the Plaintiffs who are seeking an award of attorney fees as the prevailing party pursuant to the Individuals with Disabilities Act (“IDEA”), 20 U.S.C. § 1400.

JURISDICTION

1. The Court has jurisdiction over this matter pursuant to the IDEA, 20 U.S.C. § 1415, *et seq.*

PARTIES

2. The Plaintiffs, D.O. and K.O. are individuals who reside and have a principal place of abode in Agawam, Massachusetts (“Plaintiffs”).
3. The Defendant, Agawam Public Schools is a Massachusetts Public Schools System with a Central Office located at 1305 Springfield Street, Feeding Hills, MA 01030 (“APS”).

FACTUAL BACKGROUND

4. P.O. is a high-school senior enrolled in the APS and is a special needs student.
5. P.O. is the Plaintiffs son.

6. P.O. is entitled to receive specialized instruction that is reasonably calculated and designed to provide him with a “free appropriate public education in the least restrictive environment” (hereinafter “F.A.P.E.”).
7. Due to P.O.’s special needs, he has had an Individual Education Program (“IEP”) throughout his educational tenure.
8. Pursuant to the terms of P.O.’s IEP, P.O. has an out-of-district placement at the Forman School in Connecticut, and the Forman School was P.O.’s placement for the 2011-2012 academic year.
9. During the fall 2011, APS made the incorrect assumption that the Plaintiff D.O. and her son were no longer residents of the Town of Agawam, and therefore refused to continue to pay for P.O.’s placement with the Forman School and refused to provide P.O. with the services set forth in his IEP.
10. Thereafter, on October 21, 2011, the Plaintiffs filed a request for a hearing with the Bureau of Special Education Appeals on behalf of their son, P.O.
11. On December 12, 2011 and January 10, 2012 this matter was heard before the BSEA.
12. On February 3, 2012, a decision in favor of the Parents was entered. A copy of this decision is annexed hereto as Exhibit “A” and incorporated herein by reference.

**COUNT I – CLAIM FOR ATTORNEY FEES
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13. The Plaintiff incorporates paragraphs 1 through 12, *supra* and reallege the same as if originally stated herein.
14. On February 3, 2012, the BSEA issued a written Decision whereby the Plaintiff was the prevailing party.

15. Pursuant to the BSEA's order, D.O. and P.O were determined to be residents of the Town of Agawam. Further, APS was ordered to reimburse the Plaintiff for the tuition that she was forced to pay on her son's behalf, and continue to pay the Forman School for P.O.'s tuition pursuant to the terms of P.O.'s IEP.

16. Accordingly, the Plaintiffs are the "prevailing parties" within the meaning of the IDEA, 20 U.S.C. § 1415(i)(3)(B), and as such are entitled to an award of reasonable attorneys' fees incurred in proceeding and in the forgoing action.

WHEREFORE, the Plaintiffs request that this Court rule that the Plaintiffs are the prevailing parties and enter an award of reasonable attorney fees pursuant to 20 U.S.C. § 1415(i)(3)(B) and order such further relief as this Court deems proper and just.

The Plaintiffs,
By their Attorneys,

Dated: April 13, 2012

/s/ Sarah A. Ornelas
Sarah A. Ornelas BBO#: 670387
O'Connell, Plumb & MacKinnon, P.C.
75 Market Place
Springfield, MA 01103
Telephone: (413) 733-9111
Facsimile: (413) 733-9888